

**IN THE CIRCUIT COURT OF COOK COUNTY
COUNTY DEPARTMENT, CHANCERY DIVISION**

STATE OF ILLINOIS, by its Attorney General)	
LISA MADIGAN,)	
)	
Plaintiff,)	
)	
v.)	
)	
DAICEL CHEMICAL INDUSTRIES, LTD.,)	
EASTMAN CHEMICAL COMPANY,)	No. 02CH19575
HOECHST AKTIENGESELLSCHAFT,)	
NUTRINOVA NUTRITION SPECIALTIES)	<i>Parens Patriae</i> (Class Action)
& FOOD INGREDIENTS, GMBH,)	
HOECHST CELANESE CORPORATION, a/k/a)	
CNA HOLDINGS, INC., NUTRINOVA, INC.,)	
CELANESE AG, NIPPON GOHSEI, a/k/a)	
NIPPON SYNTHETIC CHEMICAL INDUSTRY)	
CO., LTD., and UENO FINE CHEMICALS)	
INDUSTRY, LTD.,)	
)	
Defendants.)	

ORDER PRELIMINARILY APPROVING PROPOSED SETTLEMENTS

WHEREAS the State of Illinois through its Attorney General, on behalf of itself, its political subdivisions and, to the full extent permitted by law, as class representative and *parens patriae* on behalf of natural persons residing in Illinois who have purchased Sorbates indirectly during the Relevant Period (the “Settlement Group”), and Daicel Chemical Industries, Ltd., Daicel (USA), Inc., Eastman Chemical Company, Eastman Chemical Company, Hoechst Aktiengesellschaft, Nutrinova Nutrition Specialties & Food Ingredients, GmbH, Hoechst Celanese Corporation, a/k/a CNA Holdings, Inc., Nutrinova, Inc., Celanese AG, Nippon Gohsei, a/k/a Nippon Synthetic Chemical Industry Co., Ltd., and Ueno Fine

Chemicals Industry, Ltd. (collectively “The Defendants”), by and through their counsel of record in this litigation, have entered into settlements of this litigation;

WHEREAS the terms of these settlements are set forth in the Settlement Agreements between the State of Illinois and The Defendants;

WHEREAS these settlements will, subject to this Court’s final approval, fully and finally compromise, settle and resolve the Released Claims subject to the terms and conditions set forth in the Settlement Agreements;

WHEREAS the parties to these Settlement Agreements (the “Parties”) have filed them with the Court and requested that the Court grant preliminary and final approval of the settlements pursuant to 735 ILCS 5/2-806, and/or state *parens patriae* and/or statutory and equitable authority;

WHEREAS the Court has read and considered the Settlement Agreements, the proposed Notice Plan, and the pleadings and documents submitted in connection with the Parties’ request for preliminary approval of the Settlement Agreements, and good cause appearing therefor;

IT IS HEREBY ORDERED as follows:

**PRELIMINARY APPROVAL OF SETTLEMENTS,
CONDITIONAL CERTIFICATION OF THE SETTLEMENT CLASS,
AND ESTABLISHMENT OF THE SETTLEMENT FUND**

1. This Court has jurisdiction over this action and each of the Parties for purposes of implementation and enforcement of the settlements embodied in the Settlement Agreements. Nothing herein shall be construed as consent by the Defendants to general personal jurisdiction within the State of Illinois, nor personal jurisdiction for any purpose other than

the implementation and enforcement of the settlement embodied in the Settlement Agreement.

2. The terms of the Settlement Agreements are hereby preliminarily approved, subject to further consideration thereof at the Fairness Hearing provided for below. The Court preliminarily finds that the settlements encompassed by the Settlement Agreements (the “Settlements”), including the proposed methods of distribution and allocation of the monies paid to consumers in settlement of these actions as outlined in the Settlement Agreements, are fair, reasonable and adequate and in the best interest of consumers in Illinois, and their terms satisfy 735 ILCS 5/2-806, state equitable and/or *parens patriae* law, and due process so that notice of the Settlements should be given as provided in this Order.

3. For the purpose of these Settlements only, a class consisting of:

All natural person consumers within Illinois where such a class action may be brought who purchased Sorbates indirectly from January 1, 1979 through December 31, 1997.

(the “Class”) is hereby conditionally certified, pending final approval of the Settlements herein.

4. The Court preliminarily finds that the Attorney General of Illinois has the authority to represent, settle and release claims of the State, its political subdivisions, and natural persons residing within Illinois.

NOTICE OF SETTLEMENTS

5. The Court finds that the form and content of the proposed notice (the “Notice”), contained in the Notice Plan attached as Exhibit C to both of the Settlements, is in full

compliance with the requirements of 735 ILCS 5/2-806, state *parens patriae* law, and state equitable authority and satisfies due process. The Court further finds that the Notice provides to the Settlement Group sufficient information to make an informed and meaningful decision regarding their options in this litigation and the effect of these Settlements on their rights, and that the Notice Plan is the best practicable method of notice under the circumstances. The Court approves the Notice and the Notice Plan.

6. The Court finds that the proposed 45-day Notice Period is adequate.
7. The Notice Period shall run from September 1, 2004 until October 18, 2004.
8. As soon as practicable after entry of this Order, but no later than ninety (90) days after the date of entry hereof, Illinois shall cause notice to be disseminated to the Settlement Group in accordance with the Notice Plan and the terms of this Order.
9. The State of Illinois is hereby ordered to place the proceeds of the settlement in two funds. The first fund (the "Distribution Fund") shall have \$1,250,000 placed in it. That money will either be distributed pursuant to a *cy pres* plan of distribution to benefit class members if the settlements are approved, or returned to the Defendants if the settlements are not approved. The remainder of the proceeds (\$360,000) shall be placed in a second fund (the "Fees and Expense Fund"). The monies in the Fees and Expense Fund shall:
 - i. if the settlements are approved, be used to pay the costs of notice and such attorneys' fees for the State of Illinois as may be approved by the Court, with the remainder to be distributed pursuant to the *cy pres* plan of distribution; or
 - ii. if the settlements are not approved, be returned to the defendants less any Non-Refundable Portion as defined in the controlling Settlement Agreement.

REQUESTS FOR EXCLUSION

10. All natural persons within the Settlement Group who submit valid and timely requests for exclusion from the Settlement Group postmarked on or before October 18, 2004, pursuant to instructions contained in the Notice, shall not have any rights under the Settlement Agreements and shall not be bound by the Settlement Agreements or the Final Judgment and Order.

11. All members of the Settlement Group who do not submit valid and timely requests for exclusion from the Settlement Group postmarked on or before October 18, 2004, pursuant to instructions contained in the Notice shall be bound by the Settlement Agreements and by the Final Judgment and Order. Such individuals shall be referred to as the “Releasors.”

THE FAIRNESS HEARING

12. A hearing on final settlement approval (the “Fairness Hearing”) is hereby scheduled to be held before the undersigned on January 13, 2005, at 10:30 a.m., Room 2301 of the Circuit Court of Cook County, County Department, Chancery Division, at the Richard J. Daley Center, Chicago, Illinois 60602 to consider: (a) the fairness, reasonableness and adequacy of the Settlements (b) the dismissal with prejudice of this action, and (c) the entry of the Final Judgment and Order in this action.

13. Any member of the Settlement Group who does not file a Request for Exclusion in the manner set forth above may appear at the Fairness Hearing in person or by counsel and may be heard, to the extent allowed by the Court, either in support of or in opposition to the fairness, reasonableness and adequacy of the Settlements and the dismissal with prejudice

of this action as to The Defendants, and the entry of final judgment provided, however, that no person shall be heard in opposition to the Settlements, or dismissal and/or entry of final judgment, and no papers or briefs submitted by or on behalf of any such person shall be accepted or considered by the Court, unless on or before December 15, 2004, such person:

(a) files with the Clerk of the Court a notice of such person's intent to appear ("Notice of Intent to Appear"), as well as a statement that indicates the basis for such person's opposition to the Settlements, or the dismissal of claims and/or the entry of final judgment ("Statement"), and any documentation in support of such opposition, and (b) serves copies of such Notice of Intent to Appear, Statement and documentation, as well as any other papers or briefs that such person files with the Court, either in person or by mail, upon the Antitrust Bureau, Office of the Illinois Attorney General, 100 West Randolph Street, Chicago, IL 60601, Arthur Hahn, Katten Muchin Zavis Rosenman, 525 West Monroe Street, Suite 1600, Chicago, IL 60661-3693, and Sanford M. Pastroff, Sonnenschein Nath & Rosenthal, LLP, 8000 Sears Tower, 233 S. Wacker Drive, Chicago, IL 60606; Sheldon Solow, Kaye Scholer LLP, 3 First National Plaza, Suite 4100, 70 West Madison St., Chicago, IL 60602-4231.

14. The date and time of the Fairness Hearing shall be set forth in the Notice, but shall be subject to adjournment by the Court without further notice other than that which may be posted at the Court.

15. All discovery and other pretrial proceedings in these actions are stayed and suspended pending the consideration of the Final Judgment and Order, except such proceedings as are provided for in the Settlement Agreements, or which may be necessary to implement the terms of the Settlement Agreements or this Order.

16. The Parties shall file with the Court any pleadings or memoranda in support of the Settlements and Settlement Agreements, including a statement that Illinois has effectuated the Notice Plan, no later than November 15, 2004.

17. Any Settling Member of the Settlement Group may hire an attorney at his or her own expense to appear in this action. Such attorney shall serve the Notice of Intent to Appear, Statement, and any supporting documentation on the counsel set forth in paragraph 13 on or before December 15, 2004, and file it with the Court on or before December 15, 2004.

18. Pending Final Approval, Releasors, either directly, representatively, or in any other capacity, shall not commence or prosecute, any action or proceeding in any court or tribunal asserting any of the claims or causes of action that are to be released by the Settlement Agreements upon Final Approval; and, upon Final Approval, Releasors shall be forever enjoined and barred from asserting any of the claims or causes of action released by the Settlement Agreements, and any such Releasor shall be deemed to have forever released any and all such claims and causes of action as provided for in the Settlement Agreements.

OTHER PROVISIONS

19. The Court, for purposes of this Order, adopts the definitions set forth in the Settlement Agreements.

20. The State of Illinois is authorized to disburse monies from the Fees and Expense Fund in accordance with the terms of the Settlement Agreements and this Order.

21. In the event the Settlements are terminated in accordance with the provisions of the Settlement Agreements, the Settlements and all proceedings had in connection therewith shall be null and void, except insofar as expressly provided to the contrary in the Settlement

Agreements, and without prejudice to the *status quo ante* rights of Illinois, the Settlement Group and The Defendants.

22. Neither this Order nor the Settlement Agreements shall constitute any evidence or admission of liability by The Defendants, nor shall they be offered in evidence in this or any other proceeding except to consummate or enforce the Settlement Agreements or the terms of this Order, or by The Defendants in connection with any action asserting Released Claims.

SO ORDERED this 3rd day of June 2004.

Honorable Sophia H. Hall
Circuit Court Judge